could not execute it, was not recorded. Subsequently Jass conveyed to plaintiff by warranty deed, presumably giving plaintiff no notice of the mortgage. Defendant, hearing of conveyance, recorded the mortgage without Mrs. Jass' signature, to secure any interest he might still have. Plaintiff's prospective purchaser refused to purchase, and plaintiff brings action for slander of title. *Held,* defendant was not liable. *Kelly & First State Bank* v. *Rothsay,* (Minn., 1920) 177 N. W. 347.

Where the plaintiff possesses an estate in property, an action lies against one who maliciously and falsely denies or impugns plaintiff's title, if any damage is thereby suffered by plaintiff. *Dodge* v. *Colby,* 108 N. Y. 445; *Linville* v. *Rhoades,* 73 Mo. App. 217; ODGERS, LIBEL AND SLANDER, [5th Ed.] p. 79; NEWELL, SLANDER AND LIBEL, [3rd Ed.] p. 254; see Ann. Cas. 1913C, 1360. The gist of the action is the damage to the plaintiff. *Kendall* v. *Stone,* 5 N. Y. 14; *Felt* v. *Germania Life Ins. Co.,* 133 N. Y. S. 519. An interesting speculation arises where a conveyor of land whose first grantee fails to record, proceeds to convey to a second grantee who records, in those states where the first grantee recording without notice has priority, as to whether the first grantee could sue his grantor for slander of title. One advantage of this remedy is in the possibility of exemplary damages. *Hopkins* v. *Drowne,* 21 R. I. 20. Malice is essential to the maintenance of the action, *Walkley* v. *Bostwick,* 49 Mich. 374; but intermeddling with the property of others with which one is not concerned is deemed malice. ODGERS, LIBEL AND SLANDER, [5th Ed.] p. 80. The plaintiff must have title, *Edwards* v. *Burris,* 60 Cal. 157, but in the situation just suggested the plaintiff had title at the time the second conveyance was made, and by the familiar rule of estoppel, the defendant is estopped from denying present title in the plaintiff, his grantee. The action of slander of title has been maintained where defendant advertised and sold under a false mortgage, *Gare* v. *Condon,* 87 Md. 368; where defendant fraudulently recorded a deed to himself, *Smith* v. *Autry,* 169 Pac. 623; where defendant filed a claim against the land, *Collins* v. *Whitehead,* 34 Fed. 121; where defendant, a subsequent grantee, recorded subsequently to plaintiff, the prior grantee, in Louisiana, where the peculiar action of slander to try title lies. *Atchafalaya Land Co., Ltd.,* v. *Brownell-Drews Lumber Co., Ltd.,* 130 La. 657. Generally, the plaintiff must show that the slander prevented an actual sale; see *Lindon* v. *Graham,* 8 N. Y. Super. Ct. 670; *Felt* v. *Germania Life Ins. Co., supra* But it would seem that the purpose of this requirement is to show the special damage, and in our hypothetical situation, where the plaintiff has lost all of his property, he should have the remedy as well as one whose property has simply not brought as high a price as it might have.

MASTER AND SERVANT—SCOPE OF EMPLOYMENT—EMPLOYER'S LIABILITY TO THIRD PERSONS.—The plaintiff, a minor child, while riding upon defendant's truck by permission of the driver, sustained serious injuries by reason of the driver's wanton negligence. It was conceded that it was against the driver's express orders to allow anyone to ride with him. In an action for damages against the employer, it was *held,* the employer was liable. *Higbee Co.* v. *Jackson,* (Ohio, 1920), 128 N. E. 61.

It was formerly held that the master was not liable for the wanton and wilful act of his servant, because the very fact of its being "wilful" precluded the possibility of its having been within the scope of his employment. *McManus* v. *Crickett,* 1 East 106; *Tuller* v. *Voght,* 13 Ill. 277; *Foster* v. *Essex Bank,* 17 Mass. 479; *Mali* v. *Lord,* 39 N. Y. 381; *Ry. Co.* v. *Baum,* 26 Ind. 70. But the modern rule is otherwise. *Craker* v. *Ry. Co.,* 36 Wis. 657; *Aiken* v. *Holyoke St. Ry. Co.,* 184 Mass. 269; *Magar* v. *Hammond,* 183 N. Y. 387; *Stranahan Co.* v. *Coit,* 55 Oh. St. 398, 4 L. R. A. (N. S.) 506, and note p. 485, *et seq.; Western Union Tel. Co.* v. *Cattell,* 177 Fed. 71. In the principal case, the majority of the court experience no difficulty in finding that the employe was acting in the course of and within the scope of his employment at the time of the injury. The unauthorized permission to ride was, as to the defendant, a nullity, and when the boy got upon the truck, "He was a trespasser, so far as the defendant was concerned." But, conceding this, he was "entitled to the rights of a trespasser," viz., that the defendant should not, through its employe, wantonly or wilfully injure him. Jones, J., dissenting, maintained the view that, since the permission to ride was clearly outside the scope of the driver's employment, the defendant is not liable for the subsequent injury, regardless of the degree of negligence exhibited by the employe. Of the cases he cites to maintain his position, but one, *Driscoll* v. *Scanlon,* 165 Mass. 348, is noted by the majority opinion, wherein it is attempted to distinguish it on the ground that there was in that case no positive act by the employé leading to the injury. But, *quaere,* whether the omission of the servant in that case was not as much in wanton disregard of the safety of the trespasser as was the positive act in the principal case. It would seem that in none of the other cases cited for this view in the dissent was the degree of negligence passed upon and defined as being either ordinary or wanton. *Schulwitz* v. *Delta Lumber Co.,* 126 Mich. 559; *Dover, Admr.* v. *Mayes Mfg. Co.,* 157 N. C. 324; *Hoar, Admx.* v. *Maine Cent. Ry. Co.,* 70 Me. 65; *Bowler* v. *O'Connell,* 162 Mass. 319; *Cut Stone Co.* v. *Pugh,* 115 Tenn. 688; *Kiernan* v. *N. J. Ice Co.,* 74 N. J. L. 175; *Scott* v. *Peabody Coal Co.,* 153 Ill. App. 103. And the last two mentioned are clearly distinguishable from the instant case upon their facts. The situation presented by the principal case is of common recurrence, and the two opinions in this case represent the two points of view, between which the courts are now divided. The majority opinion considers the question in the manner which is usually followed with regard to wanton injuries of trespassers by employés of railroads, viz., that the railroad owes the trespasser no duty except to do him no wanton or wilful injury. *Kirtley* v. *Ry.,* 65 Fed. 386; *Ry.* v. *Hummell,* 44 Pa. St. 375; *Maynard* v. *Ry.,* 115 Mass. 458; *Ry.* v. *Graham,* 95 Ind. 286; *Bresbahan* v. *Ry.,* 49 Mich. 410; *Roden* v. *Ry.,* 133 Ill. 72; *Toomey* v. *Ry.,* 86 Cal. 374, 10 L. R. A. 139. See *supra,* p. 93.

NEGLIGENCE—PARENTS' NEGLIGENCE IMPUTED TO THE CHILD.—P., an infant, three years and nine months old, while on a busy street, unattended, was injured by D's automobile. *Held,* that the negligence of the child's parents, in permitting it to be on the street unattended, would be imputed to the child, so as to defeat a recovery by him, unless he exercises the care required of